

Andover Conservation Commission Meeting Minutes
July 19, 2011

Town of Andover
36 Bartlett Street
3rd Floor Conference Room
7:45pm

Conservation Commission Members in Attendance:

Chairman Donald Cooper, Commissioner Kevin Porter, Commissioner Alix Driscoll, Commissioner Jon Honea and Commissioner Floyd Greenwood. Staff members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

243 High Plain Road

Present in Interest: Patricia Sullivan

Staff Recommendation: Deny the waiver and require a Plan.

Public Meeting on the Request for Determination of Applicability filed to determine if the proposed construction of an addition is subject to the Massachusetts Wetlands Protection Act.

Mr. Douglas presented this to the Commission. The filing is not complete. The historic dwelling will be moved from an adjacent farm. The applicant wishes to construct an addition 24 x 41 feet in size. The property is located in the Fish Brook Watershed. The wetland is roughly 71 feet from the BVW. This is a “backyard project”, however it is huge in size and should be regulated and evaluated as such. Waiver is requested for a Professionally Prepared Stamped Plan. Staff does not recommend granting this waiver as the plan submitted is a sketch plan on the town topo, which is insufficient for a large addition in the Watershed. Staff believes we need a full delineation including BVW, BLSF and Riverfront. We also need to know the distance from the site work to the resource areas.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to continue to a date uncertain, it was seconded by Commissioner Porter and unanimously approved.

19 Pomeroy Road
Present in Interest: Steve Cotton

Staff Recommendation: Approve as Neg.3 and Neg.6

Public Meeting on the Request for Determination of Applicability filed to determine if the repair and replacement of an existing garden timber walls in various locations and replacement of an existing retaining wall is subject to the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law.

Agent Cleary presented this to the Commission. The project filing is not complete under the WPA, only per the Commission's application policy. Waivers are requested for:

1. Lack of Professionally Prepared Plan;
2. Lack of Delineation of all wetlands;
3. Non-depiction of 25 foot non-disturb, 50 foot no-build and 100 foot buffer zone;
4. Lack of distances from proposed work to edge of resource areas; and
5. Lack of location of sedimentation control.

The project does not comply with our regulation setbacks due to existing conditions. This is a "backyard project". Spot elevations are on one of the plans submitted for approval. There is a BVW plant community along the bank; sweet pepper brush, swamp azaleas, hi-bush blueberry and maple which range from 3-5 feet from the edge of pond. The closest point of work from resource area is 2 feet. All work pertains to replacing existing timber beams and walls. There will be no changes to topography. Erosion control should be worked out on site by an agent for the Commission prior to commencement of work. Construction sequencing should be provided for protection of all resource areas and approved by an agent for the Commission prior to commencement of work.

Steve Cotton informed the Commission that he used the same plan from 1977 because he is replacing the timbers in kind and in place. Mr. Cotton submitted his waiver request at the hearing. The timbers are made of recycled plastics instead of wood.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to accept the waivers and approve as Neg.3 noting Special Conditions 3, 4 and 6 and Neg.6, it was seconded by Commissioner Honea and unanimously approved.

22 Gould Road
Present in Interest: John Kavanaugh

Staff Recommendation: Close Public Hearing and Issue Order of Conditions

Continued Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law, for the proposed construction of a single family dwelling.

Agent Cleary presented this to the Commission. This was continued from June 21, 2011 for purposes of redesigning proposed work to meet all vernal pool setback requirements. The project is complete under both the Act and our By-Law. No waivers are needed or requested. The project fully complies with our vernal pool setbacks. Commissioner Honea has mullenized himself, so we have a continuous quorum.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to close the public hearing and issue Order of Conditions to include standard pool conditions, it was seconded by Commissioner Driscoll and unanimously approved.

30 & 40 Shattuck Road

Present in Interest: Mr. Crowe

Staff Recommendation: Continue to a date uncertain.

Public Hearing on the Abbreviated Notice of Resource Area Delineation filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law to confirm the delineation of an intermittent stream and associated resource areas.

Mr. Douglas presented this to the Commission. There are no DEP comments or a file number yet.

Chairman Cooper asked for a Motion. Commissioner Porter made a Motion to continue to date uncertain, it was seconded by Commissioner Driscoll and unanimously approved.

ACTION ITEMS:

1350 South Street

Present in Interest: Mark Johnson

Staff Recommendation: Issue Order of Conditions

Issuance of an Order of Conditions. Property has been set aside along the Shawsheen as a habitat for endangered species. There will be use of existing trails and public access, however any new trails will have to be approved by Natural Heritage. Once the Applicant has met all the requirements by Natural Heritage, the conveyance to AVIS will take place. "The Commission was advised by the Applicant that public access will be allowed if Natural Heritage so allows" will be added to the Order of Conditions.

Commissioner Honea made a Motion to issue the Order of Conditions with the additional language discussed, it was seconded by Commissioner Porter and unanimously approved.

**River Street
Victoria Place Subdivision**

Staff Recommendation: Revoke Enforcement Order issued July 5, 2011 and Issue new Enforcement Order dated July 19, 2011.

Review of Enforcement Order issued to Victoria Place Subdivision on July 5, 2011 to allow for additional information to be included. Commission was told by Applicant's Attorney "work is completely in compliance with Victoria Place. We will tell you what work has been done.....roll out plans and sit down". While on the site walk, Attorney Tom Urbelis asked Attorney Borenstein for a copy of the As-Built Plan and Attorney Borenstein had no knowledge of such plan.

Commissioner Porter made a Motion to revoke the Enforcement Order issued July 5, 2011 and continue for review with Town Counsel, it was seconded by Commissioner Greenwood and unanimously approved.

CONSENT AGENDA:

Minutes

Approval of minutes from meeting of June 21, 2011.

350 Lowell Street

Issuance of a Certificate of Compliance.

Stevens Street Bridge

Issuance of a Certificate of Compliance.

Commissioner Driscoll made a Motion to Approve the Consent Agenda, it was seconded by Commissioner Honea and unanimously approved.

INFORMATION ITEMS THAT MAY REQUIRE A VOTE:

Gray Road – Skug River

Present in Interest: Dave Bunting, Alex Chandler, Chris Ward and Adam Rolls

Ratification of Emergency Certification for breach of a beaver dam at Gray Road. Dave Bunting gave a power point presentation showing the work DPW has done to breach previous beaver dams that have not worked in the past. The protocol is that DPW breaks the dam, installs a flow through device which fails, then the cycle repeats which stresses the ecology of the resource. He is looking to get guidance to resolve the cycle

and get more expertise than the DPW possesses. This should also reduce the amount of money needed for work hours breaching dams.

The Commission asked Dave to contact outside specialists to get information on alternative devices/systems and the cost.

Bow Hunt 2011

Discussion regarding proposed rules for a Fall 2011 Bow Hunt. The Draft Rules submitted by Bob Dalton were reviewed. Rule No. 5 was stricken. and Rule No. 7 will delete "new to the program". Also these Rules shall apply only to Fall 2011 season only and hunters will be asked to complete a survey at the end of the hunt to get their feedback.

Commissioner Porter made a Motion to Approve the Rules with the changes discussed, it was seconded by Commissioner Honea and approved with Commissioner Driscoll opposed.

9 Prides Circle

DEP Issuance of a Superceding Order of Conditions allowing the project.

Candidate for Commission

Vice Chairman Walsh, Chairman Cooper and Commissioner Driscoll met with Fran Fink and highly recommend her for the open seat on the Commission. She has a remarkable resume. Chairman Cooper will let the Town Manager know she is who the Commission recommends.

Commissioner Driscoll made a Motion to Approve Fran Fink for the open Commission seat, it was seconded by Commissioner Honea and unanimously approved.

47 Glenwood Road

Issuance of a Certificate of Compliance.

Commissioner Driscoll made a Motion to Approve, it was seconded by Commissioner Greenwood and unanimously approved.

Purloo beatles release at Fosters Pond. Present in Interest: Steve Cotton

There has been an expansion of purple loosestrife along the eastern edge of the Mill Reservoir wetlands. There was approximately .5 - .75 acres of new growth clogging the channel that extends from the mouth of the dredged cove to the northern basin. This appears to have capitalized on low water conditions and spread quickly through this

shallow area. The FPC has arranged for Suzanne Robert to release purple loosestrife beetles in this area this weekend. The beetles will be released at Azalea Drive.

Master Overseer

Discussion of appointment of Master Overseer.

Commissioner Porter agreed to become the Master Overseer.

Commissioner Driscoll made a Motion to Appoint Kevin Porter as Master Overseer, it was seconded by Commissioner Greenwood and unanimously approved.

5 Newport Circle

Non-Compliance site issues with Applicant not following Commission's Appointed Inspector's directives. The Inspector's Report of non-compliance is incorporated herein by reference.

The lot is completely cleared and the Order of Conditions only allowed a certain amount of clearing. The clearing was to total 30,000 square feet and they have exceeded this with the tree line completely denuded and stock piling on site. Markers were to be installed and a snow fence 10 feet out was to be installed to prohibit any further work. The contractor is not following our instructions. The staff recommends an Enforcement Order stating no equipment in the non-disturb area and non-compliance with the Order of Conditions.

Chairman Cooper suggested sending a letter that this was discussed with the Commission and they will issue an Enforcement Order and may issue fines as well.

Commissioner Porter made a Motion to send a letter of warning and issue the Enforcement Order at the next meeting if necessary, it was seconded by Commissioner Driscoll and unanimously approved.

The next meeting will be held on August 2, 2011 at 7:45pm.

The meeting was adjourned at 9:40pm by Motion of Commissioner Porter, seconded by Commissioner Greenwood and unanimously approved.

Respectfully submitted by:

**Lynn Viselli,
Recording Secretary**